

MAR 25 2008

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

MOLLY DWYER, ACTING CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

PARGAT SINGH BAATH; KULWANT
KAUR,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 04-73810

Agency Nos. A76-676-811
A76-676-812

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted March 18, 2008**

Before: CANBY, T.G. NELSON, and BEA, Circuit Judges.

Pargat Singh Baath and his wife are natives and citizens of India. They
petition for review of the Board of Immigration Appeals' ("BIA") order dismissing

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. See Fed. R. App. P. 34(a)(2).

their appeal from an immigration judge's ("IJ") decision denying their application for asylum, withholding of removal and protection under the Convention Against Torture ("CAT"). Our jurisdiction is governed by 8 U.S.C. § 1252. The court reviews an agency's adverse credibility finding for substantial evidence. *Pal v. INS*, 204 F.3d 935, 938 (9th Cir. 2000). We deny in part, and dismiss in part the petition for review.

Substantial evidence supports the IJ's adverse credibility determination based on the inconsistencies regarding Baath's political involvement, and his changing testimony when confronted with the inconsistencies. *See id.* at 940; *see Paredes-Urrestarazu v. INS*, 36 F.3d 801, 819 (9th Cir. 1994) ("IJ's factual finding as to why Petitioner changed his testimony is entitled to 'special deference'").

Without credible testimony, Baath failed to carry the burden of establishing eligibility for asylum or withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

We lack jurisdiction to consider Petitioners' contentions regarding CAT protection, because they did not raise them before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.